

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

ANANDA CAMARGO CHAVEZ,
Plaintiff,

v.

REBUILT BROKERAGE LLC d/b/a
REBUILT REALTY AND REBUILT
OFFERS LLC
Defendant.

§
§
§
§
§
§
§
§

Case No. 1:24-cv-504-RP

**DEFENDANTS' MOTION FOR LEAVE TO FILE SURREPLY
TO PLAINTIFF'S MOTION FOR SANCTIONS**

COMES NOW, Defendants Defendant Rebuilt Brokerage LLC d/b/a Rebuilt Realty and Rebuilt Offers LLC (collectively the "Defendants"), and files this Motion for Leave to File Surreply to Plaintiff's Motion for Sanctions as follows:

I.

1. Plaintiff filed his motion for sanctions on December 17, 2024. Doc. 23. No exhibits were attached. Id.
2. Defendants responded on January 3, 2025, including highlight the lack of evidence to support Plaintiff's Motion. Doc. 25.
3. Plaintiff filed a reply on January 10, 2024, which included new evidence, as well as new arguments and new case law. Doc. 26; Doc. 26-1; Doc. 26-2.
4. Defendants seek leave to file a short surreply to address the new evidence and new legal arguments raised.
5. A copy of Defendants' proposed Surreply is attached.
6. For these reasons, as fully set out herein, this Court should grant Defendant's Motion for Leave to File a Surreply to Plaintiff's Motion for Sanctions.

ARGUMENTS AND AUTHORITIES

A. Standard of Law.

7. The decision to allow a sur-reply lies within the district court's discretion. *Silo Rest. Inc. v. Allied Prop. & Cas. Ins. Co.*, 420 F. Supp. 3d 562, 570 (W.D. Tex. 2019). Sur-replies have, however, been useful briefing for courts when necessary to respond to the movant using the reply to: "(1) introduce new evidence; (2) assert a new defense to liability; or (3) cite a supposedly analogous case for the first time." *Austin v. Kroger Texas, L.P.*, No. 3:11-cv-1169-B, 2016 U.S. Dist. LEXIS 45781, 2016 WL 1322248, at *1 (N.D. Tex. 2016); *Residents of Gordon Plaza, Inc. v. Cantrell*, 25 F.4th 288, 296 (5th Cir. 2022)); *Rosales v. Wormuth*, No. 1:23-cv-00440-DAE, 2024 U.S. Dist. LEXIS 80322, at *2 (W.D. Tex. May 2, 2024); *Laerdal Med. Corp. v. Tomczak*, No. 1:23-CV-1157-DII, 2024 U.S. Dist. LEXIS 85740, at *15-16 (W.D. Tex. May 13, 2024).

B. Plaintiff's attach new evidence and make new claims in Plaintiff's Reply.

8. The evidence attached to Plaintiff's surreply was not included with Plaintiff's Motion, and thus Defendants were not afforded the opportunity to address these documents. Defendant should be afforded the opportunity to address this evidence.

9. Second, Plaintiff claims in his Reply that Defendants "failed to suspend automatic deletion policies" despite not mentioning these automatic deletion policies anywhere in Plaintiff's original motion. Doc. 26; Doc.23. Plaintiff also cites several cases concerning cases alleged to involving similar automatic deletion policies. Doc. 26.

10. As Plaintiff attaches new evidence and cites new case law for a new proposition, none of which was including in Plaintiff's original motion, Defendants should be afforded the opportunity to file a surreply.

CONCLUSION

For the reasons stated herein, this Court should allow Defendants to file a Surreply to address the new evidence and arguments raised in Plaintiff's Reply.

Respectfully submitted,

MARTIN GOLDEN LYONS
WATTS MORGAN PLLC

/s/ Xerxes Martin
EUGENE XERXES MARTIN, IV
Texas State Bar No. 24078928
Email: xmartin@mgl.law
JACOB MICHAEL BACH
Texas State Bar No. 24100919
Email: jbach@mgl.law
MARTIN GOLDEN LYONS
WATTS MORGAN PLLC
Northpark Central, Suite 1850
8750 North Central Expressway
Dallas, Texas 75231
TEL: (214) 346-2630
FAX: (214) 346-2631

COUNSEL FOR DEFENDANT

CERTIFICATE OF CONFERENCE

Counsel for Defendants conferred with counsel for Plaintiff via email, including provided a draft copy of this Motion for Leave and the Surreply. Plaintiff's counsel stated, "We may file an opposition, so we can't assent at this time. Sorry for the delay in responding." Therefore, Plaintiff is opposed to the relief requested herein.

/s/ Xerxes Martin
EUGENE XERXES MARTIN, IV

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded via CM/ECF system to all parties entitled to notice of the same on this 31st day of January 2025.

/s/ Xerxes Martin
EUGENE XERXES MARTIN, IV